

FAQs About IDEA 2004

Manifestation Determination

When must a manifestation determination be conducted?

A child's IEP team must conduct a manifestation determination meeting whenever it proposes to change the educational placement of a student with disabilities by removing the student from school for more than 10 days due to a violation of the school's code of conduct.

What is the timeframe for conducting this IEP meeting?

The school must conduct the IEP meeting within 10 school days of the decision to change the student's educational placement by removing the student from school for more than 10 days due to a violation of the school's code of conduct.

What must the IEP team review to determine whether the behavior is a manifestation of the child's disability?

The team must review all relevant information in the child's file, including the IEP, teacher observations, and information from the parent, to determine if the conduct in question was caused by or had a direct and substantial relationship to the disability or whether it was the direct result of the school's failure to implement the IEP.

What must the school do if the behavior was a manifestation of the disability?

The school must conduct a functional behavioral assessment, unless the school had conducted one previous to the behavioral incident which resulted in the change in placement, and implement a behavior intervention plan. If the school already had a behavior intervention plan in place prior to the incident, it must review the plan and modify it as necessary to address the behavior. The requirements for a functional behavioral assessment have not changed with IDEA 2004.

Where will the student's placement be if the behavior is a manifestation of the disability?

The student will be returned to the placement that was in effect prior to the removal unless the school and the parent agree otherwise.

When may a school remove a student to an interim alternative educational setting for 45 school days without conducting a manifestation determination?

There are three instances in which the school may remove a student for 45 school days without conducting a manifestation determination: 1) if a student carries a weapon to or possesses a weapon at school, on school premises or to or at a school function under the jurisdiction of the school or the Office of Public Instruction; 2) if a student knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the school or the Office of Public Instruction; 3) if a student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the school or the Office of Public Instruction.

What is the definition of “serious bodily injury?”

Serious bodily injury means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, as defined in federal statute (18 USC 1365).

The reauthorized Individuals with Disabilities Education Act (IDEA) became effective on July 1, 2005. This list of Frequently Asked Questions (FAQ) sheet is one of a series from the Montana Office of Public Instruction which highlight changes resulting from the reauthorization of the IDEA. Additional changes may result from the final regulations.

If you have further questions, please contact your local special education director or the Montana Office of Public Instruction. A complete listing of current OPI IDEA FAQs can be found at www.opi.mt.gov/speced/FAQs.



Linda McCulloch, Superintendent
Office of Public Instruction
PO Box 202501
Helena, MT 59620-2501
www.opi.mt.gov/speced